

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

PRAXI, LLC,

Plaintiff,

vs.

CAP CANA, S.A., DEUTSCHE BANK A.G. and
DEUTSCHE BANK SECURITIES, INC.,

Defendants.

Case No. 07 Civ. 9727 (LTS)

**NOTICE OF MOTION OF DEFENDANT CAP CANA, S.A. TO DISMISS
THE FIRST AMENDED COMPLAINT**

PLEASE TAKE NOTICE, that upon the annexed declarations of George Spence, sworn to on February 6, 2008, and Luis Miguel Pereyra C., sworn to on February 7, 2008, along with the exhibits attached thereto, and the accompanying Memorandum of Law, a motion will be made by Defendant Cap Cana, S.A. (“Cap Cana”), before the Honorable Laura Taylor Swain, United States District Judge, at the United States Courthouse, 500 Pearl Street, New York, New York 10007-1312, on a date to be determined by the Court, for an order, pursuant to Federal Rules of Civil Procedure 12(b)(3) and 12(b)(6), to dismiss the First Amended Complaint (“Complaint”) with prejudice for improper venue and failure to state a claim upon which relief can be granted.

The undersigned certifies that Cap Cana has used its best efforts in attempting to resolve matters informally. A letter was sent to Praxi outlining the reasons for this motion and requesting that the matter be voluntarily dismissed. No response to the letter was received. In

addition, the parties spoke over the phone in an attempt to reach a resolution. The parties have been unable to resolve their dispute.

Dated: New York, New York
February 7, 2008

Respectfully submitted,

SIMPSON THACHER & BARTLETT LLP

By s/Jonathan K. Youngwood
Jonathan K. Youngwood
Tamala T. Boyd
425 Lexington Avenue
New York, New York 10017-3954
Telephone: (212) 455-2000
Facsimile: (212) 455-2502

Attorneys for Defendant
CAP CANA, S.A.

TO:

Steve Altman, Esq.
ALTMAN & COMPANY P.C.
260 Madison Avenue, 22nd Floor
New York, New York 10016
(212) 683-7600

Attorneys for Plaintiff

Patrick Smith, Esq.
THACHER PROFFITT & WOOD LLP
Two World Financial Center
New York, New York 10281
(212) 912-7400

*Attorneys for Defendants Deutsche Bank
A.G. and Deutsche Bank Securities Inc.*